

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**DAVID ROBERTS, MARLENE ROBERTS,
and MACY ROBERTS,**

Plaintiffs,

v.

Case No. 05-C-0244

**X-TREME CONTRACTORS, LLC.,
X-TREME CONTRACTORS, LLC., HEALTH BENEFIT PLAN,
SEAN COLLINS, Individually and as Fiduciary of
X-treme Contractors, LLC., Health Benefit Plan,**

Defendants.

DECISION AND ORDER

On March 3, 2005, the Plaintiffs filed their complaint in this Court bringing claims for relief pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 *et seq.* The Defendants filed their answer on April 12, 2005, and, on January 19, 2006, the Plaintiffs filed an expedited, non-dispositive motion to amend the complaint. The Defendants have not responded to the Plaintiff's motion, and, therefore, the Court considers it unopposed.

Rule 15 of the Federal Rules of Civil Procedure states that

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is

served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.

Fed. R. Civ. P. 15. In accordance with Rule 15, the Plaintiffs, by their motion, have sought leave of the Court to amend their complaint. The Plaintiffs claim that they have uncovered facts during discovery giving rise to other causes of action related to the instant case. Based on these representations and its examination of the amended complaint, the Court finds that the interests of justice are best served by permitting the Plaintiffs to amend their complaint.

_____ **NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:**

The Plaintiffs' Rule 7.4 Expedited Non-Dispositive Motion for Leave to File Amended Complaint (Docket No. 15) is **GRANTED**.

The Clerk of Court is directed to file the amended complaint, attached to the Plaintiff's Motion to Amend as Exhibit Two, as of the date of this Order.

Dated at Milwaukee, Wisconsin this 30th day of January, 2006.

BY THE COURT

s/ Rudolph T. Randa
Hon. Rudolph T. Randa
Chief Judge